

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Escrow Agent Registration Act of Washington by:

International Escrow Inc.; and
Grigory Yelkin, Ben Tran, and Slava Dekman,
Principals,

Respondents.

NO. C-02-373-03-SC01

STATEMENT OF CHARGES and NOTICE OF
INTENT TO ASSESS MONETARY PENALTIES,
REVOKE LICENSE, AND PROHIBIT FROM
PARTICIPATION IN THE ESCROW INDUSTRY

INTRODUCTION

Pursuant to RCW 18.44.410, the Director of the Department of Financial Institutions ("Director") is responsible for the administration of chapter 18.44 RCW, the Escrow Agent Registration Act ("the Act"). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation pursuant to RCW 18.44.420, and based upon the facts available as of August 29, 2003, the Director institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents:

A. International Escrow, Inc. ("International"), is a corporation and is known to have conducted business as an escrow agent at 555 116th Avenue NE Suite 222, Bellevue, Washington 99004. International was licensed to conduct the business of an escrow agent on May 27, 1999, by license number 540-EA-1588-00 (New #18618). This license expired on December 31, 2002. At the time the license was approved by the Department of Financial Institutions ("Department"), International was owned equally and jointly by Grigory Yelkin, its President, and Ben Tran, its Vice President-Secretary.

B. Grigory Yelkin ("Yelkin") is known to be the President of International.

C. Ben Tran ("Tran") is known to be the Vice President-Secretary of International.

1 **D. Slava Dekman** (“Dekman”) is listed on a signature card for International’s trust account dated
2 October 26, 2000, as “President” of International.

3 **1.2 Examination:**

4 **A. Conduct of Examination:** On April 1 and 2, 2002, the Department commenced an onsite
5 examination of International’s trust accounts.

6 **B. Examination Findings:** The examination resulted in the following findings, among others:

7 **i. Operating Without Licensed Escrow Officer:** At the time of the examination, the Department
8 learned that International’s Designated Escrow Officer (“DEO”), Karen “Sam” Balsley, had terminated her employment
9 with International effective February 12, 2002. The DEO surrendered her license on April 2, 2002. International did
10 not surrender its Escrow Agent license on February 12, 2002, when the DEO terminated and continued to engage in the
11 business of an escrow agent. At least one new escrow file was opened after February 12, 2002.

12 **ii. Failure to Account for Outstanding Checks:** Respondents had eleven (11) potential stale dated
13 checks totaling \$636.68 that had been outstanding for at least ninety (90) days as of February 28, 2002.

14 **iii. Failure to Promptly Disburse Funds:** Respondents’ trial balance report as of March 31, 2002,
15 showed that International had \$5,362.77 in twenty-seven (27) closed escrow accounts that had been closed for more
16 than six (6) months.

17 **iv. Failure to Properly Account for Funds in Trust:** Respondents allowed bank charges of
18 \$27.00 for a returned item charge to be paid from the trust account.

19 **1.3 Failure to Maintain Surety Bond:** On July 19, 2002, the Department received notice from Zurich North
20 American Financial Enterprises that International’s surety bond had been cancelled effective September 1, 2002. The
21 Department notified International of the cancellation of the bond by telefacsimile on July 22, 2002, and again on July
22 30, 2002. To date, Respondents have not provided the Department with a replacement surety bond.

23 **1.4 Failure to Notify of Change of Officers:** At some point between the original approval of the license on May
24 27, 1999, and the signing of the trust account signature card on October 26, 2000, Slava Dekman began representing
 himself as President of International. To date, Respondents have not officially notified the Department of any change in
 the ownership or control of International.

1 **1.5 Failure to Pay Annual License Fee:** On December 31, 2002, International's license to operate as an Escrow
2 Agent expired for failure to pay the annual license fee of \$366.29. After December 31, a penalty for late payment of
3 \$183.14 must also be remitted in order to renew an Escrow Agent license. To date, Respondents have paid neither the
4 annual license nor the late penalty, totaling \$549.43.

5 **1.6 Engaging in Business Without License:** As of July 31, 2003, International continued to maintain a trust
6 account at Key Bank. In addition, as of August 29, 2003, the known telephone number for International was answered
7 by a telephone message indicating that the number belonged to International Escrow. As of August 29, 2003,
8 Respondents have not notified the Department that International has closed its office nor have Respondents submitted
9 the information required of an Escrow Agent when it terminates business.

10 **1.7 On-Going Investigation:** The Department's investigation into the alleged violations of the Act by
11 Respondents continues to date.

12 **II. GROUNDS FOR ENTRY OF ORDER**

13 **2.1 Operating Without a Designated Escrow Officer:** Based on the Factual Allegations set forth above,
14 Respondents are in apparent violation of RCW 18.44.071 when they operated as an Escrow Agent without a designated
15 escrow officer.

16 **2.2 Failure to Pay Annual License Fee:** Based on the Factual Allegations set forth above, Respondents are in
17 apparent violation of RCW 18.44.121 when they failed to pay the required annual license fee for 2003.

18 **2.3 Engaging in Business Without License:** Based on the Factual Allegations set forth above, Respondents are in
19 apparent violation of RCW 18.44.171 when they continued to operate as an Escrow Agent after the required licensed
20 had expired.

21 **2.4 Failure to Maintain a Surety Bond:** Based on the Factual Allegations set forth above, Respondents are in
22 apparent violation of RCW 18.44.211 when they failed to provide the Department with a replacement surety bond when
23 the original bond was cancelled.

24 **2.5 Failure to File Required Report:** Based on the Factual Allegations set forth above, Respondents are in
apparent violation of RCW 18.44.301(10) when they failed to notify the Department of a change in principal officers.

2.6 Failure to Perform Acts Expeditiously: Based on the Factual Allegations set forth above, Respondents are in
apparent violation of WAC 208-680D-050, when they failed to promptly resolve issues in escrow accounts that have

1 been closed for more than 90 days. Further, Respondents are in apparent violation of this section when they failed to
2 promptly resolve issues related to potential stale dated checks that have been outstanding for more than 90 days.

3 **2.7 Failure to Notify of Change of Officers:** Based on the Factual Allegations set forth above, Respondents are
4 in apparent violation of WAC 208-680B-015(4) when they changed principal officers without notifying the Department
5 at least thirty (30) days prior to the change.

6 **2.8 Failure to Promptly Disburse Funds:** Based on the Factual Allegations set forth above, Respondents are in
7 apparent violation of WAC 208-680D-060, when they failed to promptly disburse funds immediately upon the closing
8 of escrow transactions.

9 **2.9 Failure to Properly Administer Funds Held in Trust:** Based on the Factual Allegations set forth above,
10 Respondents are in apparent violation of WAC 208-680E-011(14), when they disbursed funds from the trust account
11 for bank charges.

12 **2.7 Director's Discretion:** Pursuant to RCW 18.44.410 and WAC 208-680G-030, the Director has the
13 power and broad administrative discretion to administer and interpret this chapter to facilitate the delivery of services
14 to citizens of this state by escrow agents and others subject to this chapter, including the issuance of rules and
15 regulations, the revocation of licenses, and revocation of authority to act as a designated escrow officer.

16 **2.8 Authority to Revoke License:** Pursuant to RCW 18.44.430(1)(b), the Director may upon notice to the
17 escrow agent and to the insurer providing coverage under RCW 18.44.201, deny, suspend, decline to renew, or
18 revoke the license of any escrow agent or escrow officer for violating any of the provisions of the Act or any
19 lawful rules made by the Director pursuant to the Act.

20 **2.9 Authority to Impose Fines:** Pursuant to RCW 18.44.430(3) and WAC 208-680G-040(3), the Director may
21 impose fines in addition to or in lieu of revocation.

22 **2.10 Authority to Prohibit from the Industry:** Pursuant to RCW 18.44.430(3) and WAC 208-680G-
23 040(2), the Director may remove and/or prohibit from participation in the conduct of the affairs of a licensed
24 escrow agent, any officer, controlling person, director, employee, or licensed escrow officer in addition to or in
lieu of revocation.

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III. NOTICE OF INTENT TO ENTER ORDER

The violations by International Escrow Inc., Grigory Yelkin, Ben Tran, and Slava Dekman of the provisions of chapter 18.44 RCW as set forth in the above Factual Allegations and Grounds For Entry Of Order constitute a basis for the entry of an Order under RCW 18.44.410, RCW 18.44.430, RCW 18.44.301, and WAC 208-680G-030, which authorize the Director to enforce all laws, rules, and regulations related to the registration of escrow agents and licensing of escrow officers. Therefore, it is the Director's intention to ORDER:

- 3.1 That the license of International Escrow Inc. to do business as an escrow agent be revoked; and
- 3.2 That Grigory Yelkin be prohibited from participation in the conduct of the affairs of a licensed escrow agent as an officer, principal, or employee of any licensed escrow agent or any person subject to licensing under this chapter for five (5) years, and
- 3.3 That Ben Tran be prohibited from participation in the conduct of the affairs of a licensed escrow agent as an officer, principal, or employee of any licensed escrow agent or any person subject to licensing under this chapter for five (5) years, and
- 3.4 That Slava Dekman be prohibited from participation in the conduct of the affairs of a licensed escrow agent as an officer, principal, or employee of any licensed escrow agent or any person subject to licensing under this chapter for five (5) years, and
- 3.5 That Respondents, jointly and severally, shall pay fines in the amount of \$4,500.00, calculated as follows: \$75.00 per day for 30 days for violation of RCW 18.44.071, and \$75.00 per day for 30 days for violation of RCW 18.44.301(10); and
- 3.6 That Respondents comply with all information requests and directives from the Department within the timeframes specified in conjunction with the investigation of its business practices; and
- 3.7 That Respondents, their officers, employees, and agents shall maintain all records involving escrow transactions for a minimum of six (6) years following the closing or termination of the escrow transaction; and
- 3.8 That Respondents immediately fulfill the requirements of an escrow agent set forth in the Act and chapter 208-680 WAC pertaining to funds owed to consumers by disbursing funds, as necessary. Should Respondents be unable to locate the person to whom the money is owed, Respondents must escheat the funds to the Washington State Department of Revenue. Respondents must provide the Department with written proof of payments to consumers and, if escheated, payments to the Department of Revenue. Written proof, at a minimum, must include copies of the front and back of cancelled checks.

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IV. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intent to Assess Monetary Penalties, Revoke License, and Prohibit from Participation in the Escrow Industry is entered pursuant to the provisions of RCW 18.44.410 and RCW 18.44.430, and is subject to the provisions of chapter 34.05 RCW. International Escrow, Inc., Grigory Yelkin, Ben Tran and Slava Dekman may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges and Notice of Intent to Assess Monetary Penalties, Revoke Licenses, and Prohibit from Participation in the Escrow Industry.

DATED this 29th day of August, 2003.

/S/
Chuck Cross, Acting Director and Enforcement Chief
Division of Consumer Services
Department of Financial Institutions

Presented by:

/S/
Victoria W. Sheldon
Financial Legal Examiner

RCW 18.44.071 Escrow officer required for handling transactions -- Responsibility of supervising escrow agent.

Every licensed escrow agent shall ensure that all escrow transactions are supervised by a licensed escrow officer. In the case of a partnership, the designated escrow officer shall be a partner in the partnership and shall act on behalf of the partnership. In the case of a corporation, the designated escrow officer shall be an officer of the corporation and shall act on behalf of the corporation. The designated escrow officer shall be responsible for that agent's handling of escrow transactions, management of the agent's trust account, and supervision of all other licensed escrow officers employed by the agent. Responsibility for the conduct of any licensed escrow officer covered by this chapter shall rest with the designated escrow officer or designated branch escrow officer having direct supervision of such person's escrow activities. The branch designated escrow officer shall bear responsibility for supervision of all other licensed escrow officers or other persons performing escrow transactions at a branch escrow office. [1999 c 30 § 21; 1977 ex.s. c 156 § 11; 1971 ex.s. c 245 § 7. Formerly RCW 18.44.200.]

RCW 18.44.121 Fees. The director shall charge and collect the following fees as established by rule by the director:

(1) A fee for filing an original or a renewal application for an escrow agent license, a fee for each application for an additional licensed location, a fee for an application for a change of address for an escrow agent, annual fees for the first office or location and for each additional office or location, and under RCW 43.135.055 the director shall set the annual fee for an escrow agent license up to five hundred sixty-five dollars in fiscal year 2000.

(2) A fee for filing an original or a renewal application for an escrow officer license, a fee for an application for a change of address for each escrow officer license being so changed, a fee to activate an inactive escrow officer license or transfer an escrow officer license, and under RCW 43.135.055 the director shall set the annual fee for an escrow officer license up to two hundred thirty-five dollars in fiscal year 2000.

(3) A fee for filing an application for a duplicate of an escrow agent license or of an escrow officer license lost, stolen, destroyed, or for replacement.

(4) A fee for providing license examinations.

(5) An hourly audit fee. In setting this fee, the director shall ensure that every examination and audit, or any part of the examination or audit, of any person licensed or subject to licensing in this state requiring travel and services outside this state by the director or by employees designated by the director, shall be at the expense of the person examined or audited at the hourly rate established by the director, plus the per diem compensation and actual travel expenses incurred by the director or his or her employees conducting the examination or audit. When making any examination or audit under this chapter, the director may retain attorneys, appraisers, independent certified public accountants, or other professionals and specialists as examiners or auditors, the cost of which shall be borne by the person who is the subject of the examination or audit.

In establishing these fees, the director shall set the fees at a sufficient level to defray the costs of administering this chapter.

All fees received by the director under this chapter shall be paid into the state treasury to the credit of the banking examination fund. [1999 c 30 § 10; 1995 c 238 § 2; 1985 c 340 § 1; 1977 ex.s. c 156 § 7; 1971 ex.s. c 245 § 5; 1965 c 153 § 8. Formerly RCW 18.44.080.]

RCW 18.44.171 Engaging in business without license – Penalty. Any person required by this chapter to obtain a license who engages in business as an escrow agent without applying for and receiving the license required by this chapter, or willfully continues to act as an escrow agent or licensed escrow officer after surrender, expiration, suspension, or revocation of his or her license, is guilty of a misdemeanor punishable by imprisonment for not more than ninety days, or by a fine of not more than one hundred dollars per day for each day's violation, or by both such fine and imprisonment. [1999 c 30 § 17; 1965 c 153 § 14. Formerly RCW 18.44.140.]

RCW 18.44.201 Financial responsibility – Fidelity bond – Errors and omissions policy – Surety bond.

(1) At the time of filing an application for an escrow agent license, or any renewal or reinstatement of an escrow agent license, the applicant shall provide satisfactory evidence to the director of having obtained the following as evidence of financial responsibility:

a) A fidelity bond providing coverage in the aggregate amount of two hundred thousand dollars with a deductible no greater than ten thousand dollars covering each corporate officer, partner, escrow officer, and employee of the applicant

engaged in escrow transactions;

(b) An errors and omissions policy issued to the escrow agent providing coverage in the minimum aggregate amount of fifty thousand dollars or, alternatively, cash or securities in the principal amount of fifty thousand dollars deposited in an approved depository on condition that they be available for payment of any claim payable under an equivalent errors and omissions policy in that amount and pursuant to rules and regulations adopted by the department for that purpose; and

(c) A surety bond in the amount of ten thousand dollars executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, unless the fidelity bond obtained by the licensee to satisfy the requirement in (a) of this subsection does not have a deductible. The bond shall run to the state of Washington as obligee, and shall run to the benefit of the state and any person or persons who suffer loss by reason of the applicant's or its employee's violation of this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted under this chapter, and shall reimburse all persons who suffer loss by reason of a violation of this chapter or rules adopted under this chapter. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation shall be effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any penalties imposed on the licensee, including but not limited to, any increased damages or attorneys' fees, or both, awarded under RCW 19.86.090.

(2) For the purposes of this section, a "fidelity bond" shall mean a primary commercial blanket bond or its equivalent satisfactory to the director and written by an insurer authorized to transact this line of business in the state of Washington. Such bond shall provide fidelity coverage for any fraudulent or dishonest acts committed by any one or more of the employees or officers as defined in the bond, acting alone or in collusion with others. This bond shall be for the sole benefit of the escrow agent and under no circumstances whatsoever shall the bonding company be liable under the bond to any other party. The bond shall name the escrow agent as obligee and shall protect the obligee against the loss of money or other real or personal property belonging to the obligee, or in which the obligee has a pecuniary interest, or for which the obligee is legally liable or held by the obligee in any capacity, whether the obligee is legally liable therefor or not. The bond may be canceled by the insurer upon delivery of thirty days' written notice to the director and to the escrow agent.

(3) For the purposes of this section, an "errors and omissions policy" shall mean a group or individual insurance policy satisfactory to the director and issued by an insurer authorized to transact insurance business in the state of Washington. Such policy shall provide coverage for unintentional errors and omissions of the escrow agent and its employees, and may be canceled by the insurer upon delivery of thirty days' written notice to the director and to the escrow agent.

(4) Except as provided in RCW 18.44.221, the fidelity bond, surety bond, and the errors and omissions policy required by this section shall be kept in full force and effect as a condition precedent to the escrow agent's authority to transact escrow business in this state, and the escrow agent shall supply the director with satisfactory evidence thereof upon request. [1999 c 30 § 5; 1979 c 70 § 1; 1977 ex.s. c 156 § 5; 1971 ex.s. c 245 § 4; 1965 c 153 § 5. Formerly RCW 18.44.050.]

RCW 18.44.211 Cancellation of fidelity bond or surety bond, or both – New bond required. In the event of cancellation of either the fidelity bond, the surety bond, or both, the director shall require the filing of a new bond or bonds. Failure to provide the director with satisfactory evidence of a new bond after receipt by the director of notification that one is required or by the effective date of the cancellation notice, whichever is later, shall be sufficient grounds for the suspension or revocation of the escrow agent's license. [1999 c 30 § 6; 1965 c 153 § 6. Formerly RCW 18.44.060.]

RCW 18.44.301 Prohibited practices.

It is a violation of this chapter for any escrow agent, controlling person, officer, designated escrow officer, independent contractor, employee of an escrow business, or other person subject to this chapter to:

...

(10) Fail to make any report or statement lawfully required by the director or other public official. [1999 c 30 § 9.]

RCW 18.44.410 Powers of director.

(1) The director has the power and broad administrative discretion to administer and interpret this chapter to facilitate the delivery of services to citizens of this state by escrow agents and others subject to this chapter.

(2) The director may issue rules and regulations to govern the activities of licensed escrow agents and escrow officers. The director shall enforce all laws and rules relating to the licensing of escrow agents and escrow officers and fix the time and places for holding examinations of applicants for licenses and prescribe the method of conducting the examinations. The director may hold hearings and suspend or revoke the licenses of violators and may deny, suspend, or revoke the authority of an escrow officer to act as the designated escrow officer of a person who commits violations of this chapter or of the rules under this chapter.

Except as specifically provided in this chapter, the rules adopted and the hearings conducted shall be in accordance with the provisions of chapter 34.05 RCW, the administrative procedure act. [1999 c 30 § 27; 1977 ex.s. c 156 § 25. Formerly RCW 18.44.320.]

RCW 18.44.420 Investigation of violations – Procedure – Powers of director. The director may:

(1) Make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter; or

(2) Require or permit any person to file a statement in writing, under oath or otherwise as the director determines, as to all facts and circumstances concerning the matter to be investigated.

For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by the director may administer oaths or affirmations, and upon his or her own motion or upon request of any party, may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge or relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the director may apply to the superior court for an order compelling compliance.

Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedure act, chapter 34.05 RCW. [1999 c 30 § 23; 1977 ex.s. c 156 § 21. Formerly RCW 18.44.280.]

RCW 18.44.430 Actions against license -- Grounds.

(1) The director may, upon notice to the escrow agent and to the insurer providing coverage under RCW 18.44.201, deny, suspend, decline to renew, or revoke the license of any escrow agent or escrow officer if the director finds that the applicant or any partner, officer, director, controlling person, or employee has committed any of the following acts or engaged in any of the following conduct:

(a) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director.

(b) Violating any of the provisions of this chapter or any lawful rules made by the director pursuant thereto.

(c) The commission of a crime against the laws of this or any other state or government, involving moral turpitude or dishonest dealings.

(d) Knowingly committing or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the word, representation, or conduct of the licensee or agent or any partner, officer, director, controlling person, or employee acts to his or her injury or damage.

(e) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract, or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion.

(f) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document, book, or record in his or her possession for inspection of, the director or his or her authorized representatives.

(g) Committing any act of fraudulent or dishonest dealing, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter.

(h) Accepting, taking, or charging any undisclosed commission, rebate, or direct profit on expenditures made for the principal.

(i) Committing acts or engaging in conduct that demonstrates the applicant or licensee to be incompetent or untrustworthy, or a source of injury and loss to the public.

(2) Any conduct of an applicant or licensee that constitutes grounds for enforcement action under this chapter is sufficient regardless of whether the conduct took place within or outside of the state of Washington.

(3) In addition to or in lieu of a license suspension, revocation, or denial, the director may assess a fine of up to one hundred dollars per day for each day's violation of this chapter or rules adopted under this chapter and may remove and/or prohibit from participation in the conduct of the affairs of any licensed escrow agent, any officer, controlling person, director, employee, or licensed escrow officer.

[1999 c 30 § 22; 1977 ex.s. c 156 § 16; 1971 ex.s. c 245 § 13. Formerly RCW 18.44.260.]

WAC 208-680B-015 License not transferable--Notice of change in principal officer or controlling person.

(1) An escrow agent license may not be transferred.

(2) An escrow officer's license may not be transferred.

(3) Whenever a licensed escrow agent contemplates a transfer involving all or substantially all of its assets, the licensee shall provide written notice to the director at least thirty days prior to the effective date of the transfer. This notice must include a copy of the signed agreement between the parties, which provides in part:

(a) A stipulation that the transferee is responsible for obtaining a license prior to completion of the transfer;

(b) A stipulation that the transferee shall obtain and submit to the director evidence of financial responsibility in the form of the required bond or bonds and errors and omission insurance in compliance with RCW 18.44.201 prior to completion of the transfer;

(c) A stipulation indicating which of the parties shall:

(i) Make all payments due to principal parties on or before the effective date of the transfer;

(ii) Maintain and preserve the accounting and other records as required by RCW 18.44.400 and WAC 208-680D-020 and 208-680D-030;

(iii) Provide notice of the transfer to all principal parties who have pending escrows, or who have deposited funds with the escrow agent, or who have executed some other form of written agreement with the escrow agent; and

(d) A stipulation that the transferee is either restricted from using or authorized to use, the escrow agent's business name, unless waived by the director.

(4) At least thirty days prior to a change in a principal officer or controlling person of a licensed escrow agent, the licensee shall provide the director with all information required of a principal officer or controlling person when an application is made for a license. The director shall make a determination prior to completion of the change, whether the proposed new principal officer or controlling person meets the requirements for licensing.

[Statutory Authority: RCW 18.44.410. 01-08-055, § 208-680B-015, filed 4/2/01, effective 5/3/01.]

WAC 208-680D-050 Expeditious performance.

An escrow agent shall perform all acts required of the escrow agent as expeditiously as possible and within any time period identified in the escrow instructions. Intentional or negligent delay in such performance shall be considered in violation of RCW 18.44.430 (1)(i).

[Statutory Authority: RCW 18.44.410. 01-08-055, § 208-680D-050, filed 4/2/01, effective 5/3/01. 96-05-018, recodified as § 208-680D-050, filed 2/12/96, effective 4/1/96; Order RE 122, § 308-128D-050, filed 9/21/77.]

WAC 208-680D-060 Disbursement of funds.

The escrow agent shall disburse funds as set forth in the escrow instructions. Disbursement of any money or other items in violation of the trust or before the happening of the conditions of the escrow agreement or escrow instructions is a violation of RCW 18.44.430 (1)(e). Funds and other items or documents must be paid and/or disbursed immediately upon closing of the transaction or as specifically agreed to in writing by all of the principal parties: Provided, That funds are disbursed in compliance with RCW 18.44.400(3).

Upon written notice from any principal party that the ownership of the funds is in dispute or is unclear based on the

1 written agreement of the parties, the escrow agent must hold such funds until receiving written notice from all principal
2 parties that the dispute has been resolved. In lieu of holding such funds the escrow agent may interplead the funds into a
3 court of competent jurisdiction pursuant to chapter 4.08 RCW. Upon notification of a bona fide dispute between the
4 principal parties, the director may, at his/her discretion, order the escrow agent to interplead the funds into a court of
5 competent jurisdiction.

6 At no time may an escrow agent disburse or delay the disbursement of funds without the written consent of all principal
7 parties.

8 [Statutory Authority: RCW 18.44.410. 01-08-055, § 208-680D-060, filed 4/2/01, effective 5/3/01. Statutory Authority:
9 RCW 42.320.040 [43.320.040] and 18.44.320. 96-21-082, § 208-680D-060, filed 10/16/96, effective 11/16/96. 96-05-
10 018, recodified as § 208-680D-060, filed 2/12/96, effective 4/1/96. Statutory Authority: RCW 18.44.320. 88-23-049
11 (Order PM 790), § 308-128D-060, filed 11/14/88; Order RE 122, § 308-128D-060, filed 9/21/77.]

12 **WAC 208-680E-011 Administration of funds held in trust.** The designated escrow officer or branch designated escrow
13 officer on behalf of the escrow agent shall be responsible for all funds received from any principal or any party to an
14 escrow transaction or escrow collection account and shall hold the funds in trust for the purposes of the transaction or
15 agreement and shall not utilize such funds for the benefit of the agent or any person not entitled to such benefit. The
16 escrow agent shall establish a trust bank account(s) in a recognized Washington state depository. The escrow agent is
17 responsible for depositing, holding, disbursing, and accounting for funds in trust as provided herein.

18
19 (14) No disbursement from the trust bank account shall be made:

20 (a) For items not pertaining to a specific escrow transaction or escrow collection account;

21 (b) In advance of the closing of an escrow transaction, or before the happening of a condition set forth in the
22 escrow instructions, to any person or for any reason without a written release from all principals of the escrow transaction
23 or collection account, except that if the earnest money agreement terminates according to its own terms prior to closing,
24 disbursement of earnest money funds shall be made as provided by the earnest money agreement without a written release
unless the funds are handled as provided in WAC 208-680D-060;

(c) Pertaining to a specific escrow transaction or collection account in excess of the actual amount held in the
trust bank account in connection with such account;

(d) In payment of a fee owed to any employee of an agent or in payment of any business expense of the agent.
Payment of fees to employees of an agent or of any business expense of the agent shall be paid from the regular business
bank account of the agent;

(e) For bank charges of any nature. Arrangements must be made with the bank to have any such charges
applicable to the trust bank accounts charged to the regular business bank account, or to provide a separate statement of
bank charges so that they may be paid from the agents regular business bank account: Provided, That bank charges may
be paid from the interest on accounts allowed under subsection (1)(c) of this section;

(f) For preauthorization of payments by the financial institution for recurring expenses such as mortgage
payments on behalf of the owner if the account contains tenant security deposits or funds belonging to more than one
client;

(g) Of funds received as a damage or security deposit involving a lease or rental contract, to the property owner
or to any person(s) without the written authority of the lessee. Such funds are to be held until the end of the tenancy when
they are to be disbursed to the person(s) entitled to the funds as provided by the terms of the rental or lease agreement and
consistent with the provisions of RCW 59.18.270, Residential Landlord-Tenant Act, or other appropriate statute.

(h) If the financial institution's automated system does not have the ability to charge fees to another account, or
does not provide a separate statement for the service fees as required by (e) of this subsection, and the account is debited
for service fees, the escrow agent shall deposit within one banking day after receipt of notice funds from the general
business or other nontrust account to cover the service fee charged.

[Statutory Authority: RCW 42.320.040 [43.320.040] and 18.44.320. 96-21-082, § 208-680E-011, filed 10/16/96,
effective 11/16/96. 96-05-018, recodified as § 208-680E-011, filed 2/12/96, effective 4/1/96. Statutory Authority: RCW
18.44.320. 94-04-050, § 308-128E-011, filed 1/31/94, effective 3/3/94; 89-07-077 (Order PM 825), § 308-128E-011,
filed 3/21/89, effective 6/1/89.]

WAC 208-680G-030 Enforcement.

The director, or designated person, may conduct the following types of enforcement activity:

(1) Enter orders, including temporary orders to cease and desist, compelling any person to cease and desist from the unlawful practice, and to take such affirmative action as in the judgment of the director will carry out the purposes of this chapter;

(2) Enter charges for violations of chapter 18.44 RCW and chapter 208-680 WAC;

(3) Bring an action, with or without prior administrative proceedings, in the superior court to enjoin the acts or practices and to enforce compliance with chapter 18.44 RCW, or any rule, regulation, or order of the director;

(4) Appoint a receiver or conservator to take over, operate, or liquidate any escrow office;

(5) Hold hearings; or

(6) Make referrals to other regulatory or law enforcement agencies.

[Statutory Authority: RCW 18.44.410. 01-08-055, § 208-680G-030, filed 4/2/01, effective 5/3/01.]

WAC 208-680G-040 Sanctions.

The director may impose the following sanctions:

(1) Denial, suspension, or revocation of license for any violation of RCW 18.44.260;

(2) Remove or prohibit from participation in the conduct of the affairs of any licensed escrow agent, any officer, controlling person, director, employee, or licensed escrow officer for any violation of RCW 18.44.260;

(3) Assess a fine of up to one hundred dollars per day for each day's violation of chapter 18.44 RCW, or these rules.

[Statutory Authority: RCW 18.44.410. 01-08-055, § 208-680G-040, filed 4/2/01, effective 5/3/01.]